

ICO consultation on the draft right of access guidance

The right of access (known as subject access) is a fundamental right of the General Data Protection Regulation (GDPR). It allows individuals to find out what personal data is held about them and to obtain a copy of that data. Following on from our initial GDPR guidance on this right (published in April 2018), the ICO has now drafted more detailed guidance which explains in greater detail the rights that individuals have to access their personal data and the obligations on controllers. The draft guidance also explores the special rules involving certain categories of personal data, how to deal with requests involving the personal data of others, and the exemptions that are most likely to apply in practice when handling a request.

We are running a consultation on the draft guidance to gather the views of stakeholders and the public. These views will inform the published version of the guidance by helping us to understand the areas where organisations are seeking further clarity, in particular taking into account their experiences in dealing with subject access requests since May 2018.

If you would like further information about the consultation, please email SARguidance@ico.org.uk.

Please send us your response by 17:00 on **Wednesday 12 February 2020**.

Privacy statement

For this consultation, we will publish all responses received from organisations but we will remove any personal data before publication. We will not publish responses received from respondents who have indicated that they are an individual acting in a private capacity (e.g. a member of the public). For more information about what we do with personal data [see our privacy notice](#).

Please note, your responses to this survey will be used to help us with our work on the right of access only. The information will not be used to consider any regulatory action, and you may respond anonymously should you wish.

Please note that we are using the platform Snap Surveys to gather this information. Any data collected by Snap Surveys for ICO is stored on UK servers. [You can read their Privacy Policy.](#)

Q1 Does the draft guidance cover the relevant issues about the right of access?

- ☒ Yes
- ☐ No
- ☐ Unsure/don't know

If no or unsure/don't know, what other issues would you like to be covered in it?

Q2 Does the draft guidance contain the right level of detail?

- ☒ Yes
- ☐ No
- ☐ Unsure/don't know

If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

Q3 Does the draft guidance contain enough examples?

- ☐ Yes
- ☐ No
- ☒ Unsure/don't know

If no or unsure/don't know, please provide any examples that you think should be included in the draft guidance.

- Working within a banking sector we have joint customer accounts where the account holders have separated. Even though both account holders are joint and severally liable, each account holder may have different circumstances. It can be difficult for front line employees to distinguish what we can and can't discuss. Some further examples around treating split accounts would help in relation to this.
- An idea on timescales for a letter of authority/ how long should one be valid for before we request a new authority?

Q4 We have found that data protection professionals often struggle with applying and defining 'manifestly unfounded or excessive' subject access requests. We would like to include a wide range of examples from a variety of sectors to help you. Please provide some examples of manifestly unfounded and excessive requests below (if applicable).

- If there is a fraud decline on a customers account (a mortgage for example) the account holder may ask for a SARs request to find out what information is recorded. If the information provided does not include the detail required (as this may be redacted), the broker (third party) may then ask for another. This can sometimes continue for a period of time. A guide on a time period would be helpful in relation to what is deemed as excessive and also when we should start charging a fee?
- When a customer is in arrears and they are seeking legal advice in relation to the outstanding balance in an attempt to find a way to not have to repay the outstanding amount, a continuation for SARs can be requested in an attempt to help them with the case, again a guideline on timescales would help in relation to what is deemed as excessive?

Q5 On a scale of 1-5 how useful is the draft guidance?

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 1 – Not at all
useful | 2 – Slightly
useful | 3 – Moderately
useful | 4 – Very useful | 5 – Extremely
useful |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Q6 Why have you given this score?

We have found that a lot of the issues we come across on a day to day basis have previously been grey areas so the draft guideline really helps to provide support in relation to some of the queries and issues we face within our organisation. Additionally, this draft guidance has helped us re write all of our SARs covering letters and has helped clarify information around charging a fee for a SAR.

Q7 To what extent do you agree that the draft guidance is clear and easy to understand?

- | | | | | |
|--------------------------|--------------------------|-------------------------------|--------------------------|-------------------------------------|
| Strongly
disagree | Disagree | Neither agree nor
disagree | Agree | Strongly agree |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Q8 Please provide any further comments or suggestions you may have about the draft guidance.

We appreciate that information has been added regarding deleted information as we have had a high volume of queries regarding this previously.

There is also one point within the guidance that would cause us difficulty as an organisation. It's discussed that the clock for providing a SAR will start from the point this is requested, regardless of whether or not we are comfortable with the identity of the requestor. We may have instances where ID is not verified for 28 days, in which case trying to produce SARs in high volumes, within the defined timeframes will prove really challenging.

Q9 Are you answering as:

- ☐ An individual acting in a private capacity (eg someone providing their views as a member of the public)
- ☐ An individual acting in a professional capacity
- ☒ On behalf of an organisation
- ☐ Other

Please specify the name of your organisation:

Paragon Banking Group PLC

What sector are you from:

Finance/Banking

Q10 How did you find out about this survey?

- ☐ ICO Twitter account
- ☐ ICO Facebook account
- ☐ ICO LinkedIn account
- ☒ ICO website
- ☒ ICO newsletter
- ☐ ICO staff member
- ☐ Colleague
- ☐ Personal/work Twitter account
- ☐ Personal/work Facebook account
- ☐ Personal/work LinkedIn account
- ☐ Other

Thank you for taking the time to complete the survey.

